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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-051-C - ORDER NO. 96-473
JULY 11, 1996

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IN RE: Application of Bell Atlantic Communi-) ORDER
cations, Inc. for a Certificate of Public) DENYING
Convenience and Necessity to Provide) REHEARING
Intrastate Resale and Operator Assisted) AND
Telecommunications Services within the) RECONSIDERATION
State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the June 24, 1996 Petition for Rehearing and Reconsideration of our Order No. 96-377 filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate). Our Order No. 96-377 granted, among other things, modified regulation of the Business Service offerings of Bell Atlantic Communications, Inc. (Bell Atlantic). For the reasons stated below, this Petition must be denied.

First, the Consumer Advocate asserts that the Commission's decision in Order No. 96-377 has violated the provisions of S. C. Code Ann. §58-9-585 (Supp. 1995). The Consumer Advocate argues that the Commission's "only means by which the Commission may choose to 'not fix or prescribe the rates, tolls, charges, or rate structures' for a telecommunications service of an interexchange telecommunications carrier" is under S. C. Code Ann. §58-9-585 (Supp. 1995). The Consumer Advocate argues that the Commission's

action in Order No. 96-377 improperly provides relief for Bell Atlantic's Business Services under a procedure other than that set forth in that statute.

The Commission discerns no error by its decision in Order No. 96-377. By its statutory authority and regulatory responsibility, the Commission "is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State." S. C. Code Ann. §58-3-140 (Supp. 1995). Further, S. C. Code Ann. §58-9-720 provides in relevant part that "[t]he Commission may, upon its own Motion..., ascertain and fix just and reasonable classifications, regulations, practices or service to be furnished, imposed, observed and followed by any or all telephone utilities...."

As we stated in our Order No. 96-55, the price cap regulation, which was originally modified by Order No. 95-1734, was not instituted pursuant to S. C. Code Ann. §58-9-585 (Supp. 1995), but was instituted by Commission Order No. 84-622, dated August 2, 1984. Order No. 84-622 was never appealed or overturned, and is therefore the law under which interexchange carriers have been operating since 1984. The Commission certainly has authority to modify a practice which the Commission instituted by Commission Order originally. The Commission therefore finds no merit in the Consumer Advocate's argument.

In a similar vein, the Consumer Advocate asserts that the Commission has exceeded its statutory authority, because S. C. Code Ann. §58-9-585 (Supp. 1995) is the only authority under which the Commission may choose to remove price caps for services provided by an interexchange carrier. As quoted above, the Commission is granted general regulatory authority, and under that general regulatory authority, the Commission may "ascertain and fix just and reasonable classifications, regulations, practices, or service to be furnished, imposed, observed and followed...." S. C. Code Ann. §58-9-720 (1976). The Commission believes that it has the authority to modify its prior Orders, and denies reconsideration and rehearing on the argument.


The Consumer Advocate further argues that S. C. Code Ann. §58-9-585 (Supp. 1995) is a later enacted statute, and is specific legislation, which would supersede the Commission's general authority. By Order No. 96-377, the Commission has not released its regulatory control over the business services of Bell Atlantic as envisioned by S. C. Code Ann. §58-9-585 (Supp. 1995). While the Commission has allowed the price caps to be removed, the Commission will continue to regulate Bell Atlantic and to enforce S. C. Code Ann. §59-9-210 (1976), which requires that all telephone utility rates be just and reasonable. The Commission believes that it has properly exercised its authority, and therefore, the Commission rejects the Consumer Advocate's next ground for rehearing and reconsideration.

Finally, it should be stated that Bell Atlantic's original Application, accepted February 14, 1996, does not ask for relief under S. C. Code Ann. §58-9-585 (Supp. 1995), but requests that its Business Service offerings be regulated pursuant to the procedures described and set out in Order No. 95-1734 and 96-55 in Docket No. 95-661-C. Bell Atlantic states in its Application that its intent by this request is to have its Business Services regulated in the same manner as the Commission has permitted for AT&T Communications of the Southern States. Therefore, Bell Atlantic never asked for relief under S. C. Code Ann. §58-9-585 (Supp. 1995), but requests relief under the regulatory scheme as described in Order No. 96-377. S. C. Code Ann. §58-9-585 (Supp. 1995) need not be applied.

Because of the reasoning stated above, the Commission therefore denies the request for rehearing and reconsideration of our Order No. 96-377.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)